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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,408	01/05/2005	Junya Maruyama	263861US3PCT	9967

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/519,408

Applicant(s)

MARUYAMA ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-5 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/2005; 7/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4, drawn to a gas generator, classified in class 102, subclass 202.14.
 - II. Claim 5, drawn to a holder, classified in class 102, subclass 202.9.
2. The inventions are independent or distinct, each from the other because:
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as evidenced by claims 1 and 5 (ABbr and Bsp). The subcombination has separate utility such as utility with a gas generator lacking a dual case arrangement (see items 3, E).
4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.
5. Applicant is advised that the reply to this requirement to be complete **must include (i) an election of a species or invention to be examined** even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

6. Claims 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 2, applicant claims “a second cup case E”. How is this cup case intended to relate to the previously claimed second cup case (see claim 1, line 2)? In claim 3, line 3, applicant claims “to shield the ignition charge D”. From what is the ignition charge D shielded and in what way? In claim 3, lines 5 and 8; and in claim 5, lines 2 and 3; applicant claims “the closing plug B”. This terminology lacks an antecedent. How is the closing plug B intended to relate to the previously claimed “header B” (see claim 3, line 2; and claim 5, line 1)?

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. (675).

Adams et al. (675) disclose a holder comprising:

- | | |
|-----------------------------------|----------------|
| a) a tapered portion; | see figs. 2, 4 |
| b) a squib and associated header; | 74 |

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- c) a crimping lug; 77
- d) a first cup case; 24
- e) a crimping lug for holding the first cup case; and adjacent 18
- f) holes. contains electrodes of squib 74

9. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/51192.

WO 01/51192 discloses a holder comprising:

- a) a tapered portion; 26b
- b) a squib and associated header; E, 12
- c) a crimping lug; 31b
- d) a first cup case; 10
- e) a crimping lug for holding the first cup case; and 31a
- f) holes. contains electrodes A

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Nippon KKK (WO 01/26938 A1).

Nippon KKK discloses a gas generator comprising:

- a) a first cup case; 1
- b) a contained gas generant; P
- c) a squib; 3, 5
- d) a second cup case; 5
- e) an ignition charge; 6
- f) a squib case with hole; 2
- g) a holder; 23, 24

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- h) crimping; 30
- i) holes in the holder; portion of 24 containing 3
- j) electrode pins; 7, 8
- k) area in the range of 2-10 times cross-sectional area; and see fig. 1
- l) projecting portions. bottom portions of 3

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nippon KKK (WO 01/26938 A1) in view of Novak et al. (679).

Nippon KKK applies as previously recited. However, undisclosed is a holder that is composed of a metal material. Novak et al. teach a holder that is composed of a metal material (col. 2, lines 21-23). Applicant is substituting one material type for another in an analogous art setting as explicitly encouraged by the secondary reference (see col. 2, lines 21-23 of Novak et al.). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Novak et al. to the Nippon KKK gas generator and have a gas generator with a particular material type of holder.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Amano (796) is included as an English equivalent of Nippon KKK.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877

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and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
May 17, 2006